

RESOLUTION NO. 66-89

RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF \$7,020,000 ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF KAYENTA UNIFIED SCHOOL DISTRICT NO. 27 OF NAVAJO COUNTY, ARIZONA, SCHOOL IMPROVEMENT AND REFUNDING BONDS, SERIES 1989; PROVIDING FOR THE ANNUAL LEVY OF A TAX FOR THE PAYMENT OF THE BONDS; AUTHORIZING THE EXECUTION OF A TRUST AGREEMENT FOR THE SAFEKEEPING AND HANDLING OF SECURITIES AND MONEYS TO BE USED TO PAY THE BONDS BEING REFUNDED; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT; PRESCRIBING TERMS AND PROVISIONS AND APPOINTING A REGISTRAR AND PAYING AGENT WITH RESPECT TO THE BONDS; AND ACCEPTING A PROPOSAL FOR THE PURCHASE OF THE BONDS.

WHEREAS, there have heretofore been issued not less than \$7,490,000 aggregate principal amount school improvement bonds of Kayenta Unified School District No. 27 of Navajo County, Arizona (the "District"); and

WHEREAS, the Governing Board of the District (the "Governing Board") has decided to provide for the redemption of a portion of said bonds (collectively, the "Bonds Being Refunded"), which Bonds Being Refunded are further described below:

Series Designation	Maturity Date (July 1)	Principal Amount to be Redeemed
School Improvement Bonds, Project of 1983, Series B (1983)	1989	\$ 200,000
	1990	250,000
General Obligation Refunding Bonds, Series 1985	1989	975,000
	1990	1,065,000
	1991	1,150,000
	1992	1,235,000
	1993	1,315,000
School Improvement and Refunding Bonds, Series 1986	1989	175,000
	1990	200,000
	1991	450,000
	1992	475,000

; and

WHEREAS, the bonds to refund the Bonds Being Refunded (the "Refunding Bonds") are to be issued in the original aggregate principal amount of \$5,345,000; and

WHEREAS, the Governing Board intends to issue bonds in the aggregate principal amount of \$1,675,000 for the purposes of making school improvements in accordance with the authority granted at the special bond election held in and for the District on May 20, 1986 (the "School Improvement Bonds"); and

WHEREAS, the Governing Board has determined it is in the best interest of the residents of the District to combine the sale of the Refunding Bonds and the School Improvement Bonds (collectively, the "Bonds," as further described below) as a combined issue; and

WHEREAS, the Governing Board has determined that it is expedient to refund the Bonds Being Refunded and that the issuance of the Refunding Bonds and the application of the net proceeds thereof to pay at maturity or call for redemption the Bonds Being Refunded are necessary and advisable and are in the best interests of the District because the proposed Refunding Bonds can be sold to effect a debt service cost lower than the cost of the Bonds Being Refunded and this reduction, together with the ability of the District to restructure its debt in a more efficient manner, will result in debt service savings to the taxpayers of the District; and

WHEREAS, in accordance with applicable law, the aggregate amounts of principal of and interest on the Refunding Bonds shall not exceed the aggregate amounts of principal of and interest on the Bonds Being Refunded which will become due from the date of issuance of the Refunding Bonds to the final date of maturity of the Bonds Being Refunded;

NOW, THEREFORE, IT IS RESOLVED BY THE BOARD OF SUPERVISORS OF NAVAJO COUNTY, ARIZONA, AS FOLLOWS:

Section 1. Authorization. There is hereby authorized to be issued and sold an issue of bonds of the District in an original aggregate principal amount of \$7,020,000. The bonds so authorized shall be designated Kayenta Unified School District No. 27 of Navajo County, Arizona, School Improvement and Refunding Bonds, Series 1989 (the "Bonds"), and shall be issued and sold in accordance with the provisions of this resolution and delivered to the original purchaser(s) of the Bonds against payment therefor.

Bonds of this series maturing on or before July 1, 1993, are Refunding Bonds issued for the purpose of providing funds to be used to refund the Bonds Being Refunded.

Bonds of this series maturing on and after July 1, 1994, in the aggregate principal amount of \$1,675,000 are School Improvement Bonds issued for the purpose of providing funds to be used as set forth in the ballot submitted at the special bond election.

Section 2. Terms. All Bonds will be dated June 1, 1989. Each Bond, except Bonds maturing July 1, 1993, will bear interest at the respective rates set forth below from its date to the maturity of each such Bond. Interest on such Bonds will

accrue from its date to the maturity of each Bond and will be payable on January 1, 1990, and semiannually thereafter on each succeeding July 1 and January 1. Bonds maturing July 1, 1993 (the "Capital Appreciation Bonds"), shall bear interest from the date of authentication and delivery thereof to the initial purchaser, which interest shall be payable only at maturity. Such interest will be compounded semiannually on January 1 and July 1 of each year commencing January 1, 1990. The sum of the principal of and interest to accrue on a Capital Appreciation Bond having a matured value of \$5,000 as of each July 1 and January 1 is set forth on the attached Exhibit A which is incorporated herein by reference and the interest component is computed on the basis of the initial offering price to the public as adjusted by semiannual compounding at the initial offering yields. The Bonds will be in the denomination of \$5,000 each or integral multiples thereof, except that the Capital Appreciation Bonds will be issued in amounts due at maturity of \$5,000 each or integral multiples thereof. The Bonds will be issued only in fully registered form. The Bonds will mature on July 1 in the years and in the amounts and bear interest per annum as follows:

<u>Maturity Date</u> <u>(July 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
1990	\$1,605,000 \$1,560,000	<u>7.25</u> %
1991	1,760,000 1,705,000	<u>7.50</u> %
1992	1,875,000 1,830,000	<u>7.75</u> %
1994	500,000	<u>8.00</u> %
1995	500,000	<u>8.05</u> %
1996	675,000	<u>8.10</u> %

The Capital Appreciation Bonds in the original aggregate principal amount of \$105,000 maturing on July 1, 1993, shall bear interest at the semiannual rates set forth below. Such interest payment together with the principal amount shall accrete as of each January 1 and July 1 in the manner and amount set forth in Exhibit A attached hereto. The semiannual interest rate on the Capital Appreciation Bonds (calculated without regard to semiannual compounding) shall be 423.22% per annum.

The Bonds shall have such additional terms and provisions as are in the forms of Bond attached hereto as Exhibit B and Exhibit C, each of which is a part of this resolution.

Section 3. Prior Redemption.

A. Redemption. Bonds maturing on or before July 1, 1993, are not subject to call for redemption prior to maturity. Bonds maturing on or after July 1, 1994 are subject to call for redemption prior to maturity, in whole or in part, on July 1, 1993, or on any interest payment date thereafter by the payment of a redemption price equal to the principal amount of each Bond

called for redemption plus accrued interest to the date fixed for redemption plus a premium payable from any source lawfully available therefor, the premium (calculated as a percentage of the principal amount of the Bonds to be redeemed) to be computed as follows:

<u>Redemption Dates</u>	<u>Premium</u>
July 1, 1993 and January 1, 1994	1.0%
July 1, 1994 and January 1, 1995	0.5%
and thereafter without premium.	

B. Notice. Notice of redemption of any Bond will be mailed not more than sixty (60) nor less than thirty (30) days prior to the date set for redemption to the registered owner of the Bond or Bonds being redeemed at the address shown on the bond register maintained by the registrar. Failure to properly give such notice of redemption shall not affect the redemption of any Bond for which notice was properly given.

C. Effect of Call for Redemption. On the date designated for redemption by notice given as herein provided, the Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Bonds on such date, and, if moneys for payment of the redemption price are held in separate accounts by the paying agent, interest on such Bonds or portions of Bonds so called for redemption shall cease to accrue, such Bonds shall cease to be entitled to any benefit or security hereunder and the owners of such Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof and such Bonds shall be deemed paid and no longer outstanding.

D. Redemption of Less Than All of a Bond. The District may redeem an amount which is included in a Bond in the denomination in excess of, but divisible by, \$5,000. In that event, the registered owner shall submit the Bond for partial redemption and the paying agent shall make such partial payment and the Registrar shall cause to be issued a new Bond in a principal amount which reflects the redemption so made to be authenticated and delivered to the registered owner thereof.

Section 4. Security. For the purpose of paying the principal of, interest on, premium (if any) on early redemption and costs of administration of the registration and payment of the Bonds there shall be levied on all the taxable property in the District a continuing, direct, annual, ad valorem tax sufficient to pay all such principal, interest, premium and administration costs on the Bonds as the same becomes due, such taxes to be levied, assessed and collected at the same time and in the same manner as other taxes are levied, assessed and collected. The proceeds of the taxes shall be kept in a special fund entitled the Debt Service Fund of the District and shall be used only for the payment of principal, interest, premium (if

any) or costs as above-stated. So long as the principal of and interest on the Bonds Being Refunded are paid when due from the trust established for such purpose, no taxes need be levied for the payment of amounts to become due on the Bonds Being Refunded; provided, however, that if the trust created for such purpose is ever insufficient to pay the principal of and interest on the Bonds Being Refunded when due, any taxes levied to pay principal of and interest on the Refunding Bonds shall first be applied to the payment of amounts due on the Bonds Being Refunded.

Upon the creation of the trust for payment of the Bonds Being Refunded, all moneys collected thereafter during the current fiscal year which would otherwise have been credited to the Interest and Redemption Funds for the Bonds Being Refunded shall be credited to the Interest and Redemption Funds created to service the Bonds.

Section 5. Trust Agreement. The Treasurer of the County is hereby authorized and directed to execute an irrevocable trust agreement with The Valley National Bank of Arizona, a bank authorized to do trust business in the State of Arizona, with respect to the safekeeping and handling of the moneys and securities to be held in trust for the payment of the Bonds Being Refunded in substantially the form submitted to this Board at the time of adoption of this resolution with such additions, deletions and modifications as shall be approved by the officer or officers executing and delivering the same on behalf of the County and the District and such execution and delivery shall constitute conclusive evidence of the approval of such officer or officers and of this Board of any departures from the form submitted to this Board at the time of adoption of this resolution.

Section 6. Use of Proceeds. Upon the delivery of and payment for the Bonds in accordance with the terms of their sale, the net proceeds of the Bonds designated as Refunding Bonds, together with any premium paid by the purchaser for all Bonds, after payment of the costs and expenses of their issuance, shall be applied, along with any necessary amounts credited to the Interest and Redemption Funds for the Bonds Being Refunded, or for other bonds of the District over and above amounts needed to make payments on such bonds on or before the first day of the fiscal year next commencing, to create an irrevocable trust for the benefit of the owners of the Bonds Being Refunded. Amounts credited to the trust, other than any beginning cash balance, shall be invested immediately in obligations issued or guaranteed by the United States of America. The maturing principal of and interest on such obligations, together with any beginning cash balance, will be sufficient to pay the principal of and interest and premium (if any) on the Bonds Being Refunded as the same becomes due, whether at maturity or upon earlier redemption.

Any balance of the net proceeds of the Refunding Bonds remaining after creation of the trust for the Bonds Being Refunded shall be transferred to the Interest and Redemption Funds created for the Bonds.

The net proceeds from the sale of the School Improvement Bonds, after payment of the expenses of issuance, shall be set aside and deposited by the County Treasurer in a separate fund entitled the Building Fund of the District. This resolution shall be construed as consent of the Board of Supervisors to invest such funds, pending use, in any of the securities allowed by A.R.S. § 15-1025. The proceeds of the School Improvement Bonds shall be expended only for the purpose set forth in the ballot used at the special bond election wherein issuance of the School Improvement Bonds was approved.

Section 7. Form of Bonds. Pursuant to A.R.S. § 35-491, a fully registered bond form is adopted as an alternative to the form of bond provided in A.R.S. § 15-1023. A registrar and paying agent will be appointed for the administration of the Bonds. The Bonds (other than the Capital Appreciation Bonds) shall be in substantially the form of Exhibit B, attached hereto and incorporated by reference herein. The Capital Appreciation Bonds shall be in substantially the form set forth in Exhibit C, attached hereto and incorporated by reference herein. In each, there may be such necessary and appropriate omissions, insertions and variations as are permitted or required hereby and are approved by those officers executing the Bonds. Execution thereof by such officers shall constitute conclusive evidence of such approval.

The Bonds may have notations, legends or endorsements required by law, securities exchange rule or usage. Each Bond shall show both the date of the issue and the date of such Bond's authentication and registration.

The Bonds are prohibited from being converted to coupon or bearer Bonds without the consent of the Board of Supervisors and approval of bond counsel.

Section 8. Execution of Bonds. The Bonds shall be executed for and on behalf of the District by the President and attested by the Clerk of the Governing Board and countersigned by the Navajo County Treasurer. Any or all of such signatures may be affixed manually or by mechanical reproduction.

If an officer whose signature is on a Bond no longer holds that office at the time the Bond is authenticated and registered, the Bond shall nevertheless be valid.

A Bond shall not be valid or binding until authenticated by the manual signature of an authorized officer of the registrar. The signature of the authorized officer of the

registrar shall be conclusive evidence that the Bond has been authenticated and issued under this resolution.

Section 9. Mutilated, Lost or Destroyed Bonds. In case any Bond becomes mutilated or destroyed or lost, the District shall cause to be executed and delivered a new Bond of like date and tenor in exchange and substitution for and upon the cancellation of such mutilated Bond or in lieu of and in substitution for such Bond destroyed or lost, upon the registered owner's paying the reasonable expenses and charges of the District in connection therewith and, in the case of the Bond destroyed or lost, filing with the County Treasurer by the registered owner evidence satisfactory to the Treasurer that such Bond was destroyed or lost, and furnishing the County Treasurer with a sufficient indemnity bond pursuant to § 44-3040, Arizona Revised Statutes.

Section 10. Acceptance of Proposal. The proposal of Peacock, Hislop, Staley & Given, Inc., for the purchase of the Bonds is hereby accepted and the Bonds are hereby ordered sold to such purchaser in accordance with the terms of the Bond Purchase Agreement presented to this Board at this meeting.

The County Treasurer is hereby authorized and directed to cause the Bonds to be delivered to the purchaser upon receipt of payment therefor and satisfaction of the other conditions for delivery thereof in accordance with the terms of the sale.

Section 11. Designation of Bonds. The Board of Supervisors hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). The Board of Supervisors hereby certifies that it reasonably anticipates that the aggregate amount of qualified tax-exempt obligations (as defined in Section 265(b)(3) of the Code) which will be issued for or by the District (including all subordinate entities thereof) in calendar year 1989 will not exceed \$10,000,000.

Section 12. Registrar. The Treasurer shall maintain an office or agency where Bonds may be presented for registration of transfer (the "Registrar") and an office or agency where Bonds may be presented for payment (the "Paying Agent"). The Treasurer may appoint one or more co-registrars or one or more additional Paying Agents. The Registrar and Paying Agent may make reasonable rules and set reasonable requirements for their respective functions with respect to the owners of the Bonds.

Initially, The Valley National Bank of Arizona, Phoenix, Arizona, is appointed as the Registrar and Paying Agent with respect to the Bonds. The District may change the Registrar or Paying Agent without notice to or consent of owners of the Bonds and the District may act in any such capacity.

The Registrar's fee payment agreement between the County and the District is hereby approved in substantially the form on file with the Clerk, to provide for the payment of the costs of registration and printing of the Bonds. The contract for Registrar's services is hereby approved in substantially the form on file with the Clerk to provide for the payment of Registrar's services. Upon full execution of the fee payment agreement, the Chairman of this Board and the Treasurer are hereby authorized and directed to execute and deliver the contract and the Clerk is authorized to attest the signature of either or both of the Chairman and the Treasurer.

Each Paying Agent will be required to agree in writing that the Paying Agent will hold in trust for the benefit of the owners of the Bonds all money held by the Paying Agent for the payment of principal of and interest and any premium on the Bonds.

The Registrar may appoint an authenticating agent acceptable to the District to authenticate Bonds. An authenticating agent may authenticate Bonds whenever the Registrar may do so. Each reference in this resolution to authentication by the Registrar includes authentication by an authenticating agent acting on behalf and in the name of the Registrar and subject to the Registrar's direction.

The Registrar shall keep a register of the Bonds, the registered owners of the Bonds and of transfer of the Bonds. When Bonds are presented to the Registrar or a co-registrar with a request to register transfer, the Registrar shall register the transfer on the registration books if its requirements for transfer are met and shall authenticate and deliver one or more Bonds registered in the name of the transferee of the same principal amount, maturity and rate of interest as the surrendered Bonds. The "Record Date" for the Bonds shall be the close of business of the Registrar on the fifteenth day of the calendar month preceding an interest payment date. Bonds presented to the Registrar for transfer after the close of business on the Record Date and before the close of business on the next subsequent interest payment date will be registered in the name of the transferee but the interest payment (except interest paid at maturity or upon prior redemption) will be made payable to and mailed to the registered owners shown on the books of the Registrar as of the close of business on the respective Record Date.

The Registrar shall authenticate Bonds for original issue up to \$7,020,000 in aggregate principal amount upon the written request of the County Treasurer. The Registrar shall keep a register of the Bonds and of their transfer. The aggregate principal amount of Bonds outstanding at any time may not exceed that amount except for replacement Bonds as to which the requirements of the Registrar and the District are met.

Section 13. Resolution a Contract. This resolution shall constitute a contract between the District and the registered owners of the Bonds and shall not be repealed or amended in any manner which would impair, impede or lessen the rights of the registered owners of the Bonds then outstanding.

Section 14. Tax Covenants. In consideration of the purchase and acceptance of the Bonds by the owners thereof and, as authorized by Arizona Revised Statutes, Title 35, Chapter 3, Article 7, and in consideration of retaining the exclusion of interest income on the Bonds from gross income for federal income tax purposes, the County covenants with the owners from time to time of the Bonds to neither take nor fail to take any action which action or failure to act is within its power and authority and would result in interest income on the Bonds becoming subject to inclusion as gross income for federal income tax purposes under either laws existing on the date of issuance of the Bonds or such laws as they may be modified or amended.

The County agrees that it will take any action(s) as in the opinion of Gust, Rosenfeld & Henderson ("bond counsel") may be necessary to prevent interest on the Bonds becoming subject to federal income taxes pursuant to the Code. Such requirements may include but are not limited to making further specific covenants; making truthful certifications and representations and giving necessary assurances; complying with all representations, covenants and assurances contained in certificates or agreements to be prepared by bond counsel; to pay to the United States of America any required amounts representing rebates of arbitrage profits relating to the Bonds; filing forms, statements and supporting documents as may be required under the federal tax laws; limiting the term of and yield on investments made with moneys relating to the Bonds; and limiting the use of the proceeds of the Bonds and property financed thereby.

Section 15. Severability. If any section, paragraph, subdivision, sentence, clause or phrase of this resolution is for any reason held to be illegal or unenforceable, such decision will not affect the validity of the remaining portions of this resolution. The Board of Supervisors hereby declares that it would have adopted this resolution and each and every other section, paragraph, subdivision, sentence, clause or phrase hereof and authorized the issuance of the Bonds pursuant hereto irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases of this resolution may be held illegal, invalid or unenforceable.

Section 16. Call of Refunded Bonds. The Board hereby orders that the Bonds Being Refunded be paid at maturity or be redeemed in advance of maturity on the dates and in the amounts set forth in that certain Depository Trust Agreement dated as of June 1, 1989, with respect to the Bonds to be Refunded. All

actions to redeem such Bonds whether taken before or after adoption of this resolution are ratified and confirmed.

Section 17. Ratification of Actions. All actions of the officers and agents of the District, the County or the Board of Supervisors which conform to the purposes and intent of this resolution and which further the issuance and sale of the Bonds as contemplated by this resolution whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers and agents of the District and the County are hereby authorized and directed to do all such acts and things and to execute and deliver all such documents on behalf of the District as may be necessary to carry out the terms and intent of this resolution.

PASSED, ADOPTED AND APPROVED by the Board of Supervisors of Navajo County, Arizona, on June 19, 1989.


Chairman

ATTEST:


Clerk